

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

GARLON P. ELLIS,

Petitioner,

v.

No. CV 08-0481 JB/CEG

ROBERT ULIBARRI, Warden, and  
GARY K. KING, Attorney General for  
the State of New Mexico

Respondents.

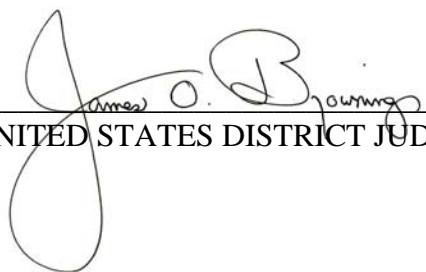
**ORDER ADOPTING MAGISTRATE JUDGE'S  
PROPOSED FINDINGS AND RECOMMENDED DISPOSITION**

**THIS MATTER** comes before the Court on the Magistrate Judge's Proposed Findings and Recommended Disposition, filed November 10, 2008 (Doc. 24). The Proposed Findings and Recommended Disposition recommends that the Court deny Petitioner Garlon Ellis' Petition for Writ of Habeas Corpus. See id. at 5. Specifically, the Magistrate Judge found that "the claims raised in Petitioner's application were decided on the merits and the state court decisions and record are entitled to deference in accordance with 28 U.S.C. § 2254(e) and the AEDPA." On November 24, 2008, Ellis filed objections to the Proposed Findings and Recommended Disposition. See Doc. 25.

The Court has carefully reviewed Ellis' objections de novo and finds that they lack sufficient merit for the Court not to adopt the Magistrate Judge's Proposed Findings and Recommended Disposition. Ellis argues the state courts misapplied the ineffective assistance-of-counsel standard, particularly with respect to the prejudice prong of the Strickland test, and as such, this Court should not give deference to the state-court findings. The Court cannot conclude, however, that the

relevant state-court decisions applied clearly established federal law erroneously or incorrectly. The state courts' application of the Strickland standard was not unreasonable and is entitled to deference under § 2254(e), as Ellis has not overcome, by clear and convincing evidence, the presumption of correctness afforded state court factual findings. See Williams v. Taylor, 529 U.S. 362, 411 (2000); Smith v. Mullin, 379 F.3d 919, 924-925 (10th Cir. 2004); Thomas v. Gibson, 218 F.3d 1213, 1219-1220 (10th Cir. 2000); 28 U.S.C. § 2254(e).

**IT IS ORDERED** that: (i) the Magistrate Judge's Proposed Findings and Recommended Disposition are adopted; (ii) Garlon Ellis' Petition for Writ of Habeas Corpus under 28 U.S.C. § 2254 (Doc. 1) and First Amended Petition for Writ of Habeas Corpus (Doc. 19) are denied; and (iii) civil case number 08-0481 JB/CEG is dismissed.

  
UNITED STATES DISTRICT JUDGE

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-- and --

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